

EXHIBIT D

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3 CASE NO. 04-11032-DPW
4

5 WILLIAM M. BYRD,

6 Plaintiff,

7 vs.

8 AVENTIS PHARMACEUTICALS,
9 INC. and DEBRA EDMUNDS,

10 Defendants.
11
12

COPY

DEPOSITION OF:

MAILET MINASSIAN

13 TRANSCRIPT of the stenographic notes of the
14 proceedings in the above-entitled matter, as
15 taken by and before TABITHA R. DENTE, a
16 Certified Shorthand Reporter and Notary Public
17 of the State of New Jersey, held at Aventis
18 Pharmaceuticals, Inc., 200 Crossing Boulevard,
19 Bridgewater, New Jersey, on Thursday, September
20 30, 2004, commencing at approximately ten
21 o'clock in the morning.
22

23 GAF LEGAL SERVICES, INC.
24 COURT REPORTING * VIDEOGRAPHY * INTERPRETING
25 188 Eagle Rock Avenue
Roseland, New Jersey 07068
(973)-618-0500

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1 A. I ended in --

2 Q. You started November of '95 and
3 you ended in June of 2000.

4 A. Correct.

5 Q. And where did you go after that?

6 A. Then I came to Aventis. So July
7 of 2000. I came to Aventis.

8 Q. And what was your position when
9 you came to Aventis?

10 A. HR Manager.

11 Q. Have you been promoted since then?

12 A. Yes.

13 Q. What was your next promotion?

14 A. My next promotion was December of
15 2001.

16 Q. And what was the position?

17 A. Senior Human Resource Manager.

18 Q. And have you been promoted since
19 then?

20 A. I was promoted April of this year,
21 April of 2004.

22 Q. And what was the position?

23 A. Director of HR For Specialty
24 Sales.

25 Q. And have you been promoted since?

Mailet Minassian

1 A. Can you just ask the question again?

2 Q. If a district manager called you
3 up and said I wanted to fire or terminate a
4 sales associate, how would you respond to that?

5 MS. ACKERSTEIN: Objection.

6 A. Like I said, I don't get calls from
7 managers that say I want to fire or terminate an
8 associate. Most managers are aware that we have
9 a progressive disciplinary policy in place and
10 they know that the appropriate steps have to be
11 taken, to basically follow the process.

12 Q. Is that with every employee?

13 MS. ACKERSTEIN: Objection.

14 A. Well, I mean, that was a...

15 Q. General.

16 A. General question, so I can't say
17 every employee because I've never had that come
18 up before.

19 Q. And what is that process?

20 A. Um, the current process is that,
21 um, associates work with the managers, the
22 managers give the associates basically coaching
23 and counselling as a starting point. If they
24 observe any deficiencies or if the associate is
25 not meeting general expectations, then the

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1 manager provides feedback.

2 If no progress is observed based
3 on the expectations that have been set forth,
4 after some period of time, then, you know, the
5 next appropriate step may be, depending on the
6 situation, that we issue a written warning to
7 the associate. And, again, in the written
8 warning we would outline and reiterate our
9 expectations.

10 If the written warning,
11 expectations are not met, then the next step may
12 be a final written warning, and then finally if
13 the deficiencies continue beyond that point,
14 then the appropriate next step may be
15 termination of employment.

16 Q. Is it fair to -- when you say
17 coaching of a sales associate, is it fair to say
18 that the first step in the process may be a
19 45-day performance program?

20 A. I can't say what the number of
21 days would be, that's...

22 Q. But they put them on some type of
23 plan?

24 MS. ACKERSTEIN: Objection. If you
25 can answer.

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1 A. Um-hum.

2 Q. Could you describe for me what
3 that is?

4 A. In terms of familiarity, I know
5 that the field sales associates are expected to
6 provide a summary of their daily activity via
7 the call summaries and they have little
8 instruments that they use to report every call
9 and they're expected to do that immediately
10 after each call basically providing a snapshot
11 of what occurred during his or her call with the
12 physician.

13 Q. Does Aventis maintain those call
14 summaries?

15 A. Um, I would have to check. At one
16 point we did, but, honestly, I've been away from
17 the primary care group for well over two
18 and-a-half, three years, so I would have to
19 check to see to what extent those records are
20 maintained now.

21 Q. Now, if a sales associate failed
22 to input that information immediately following
23 a call, is that grounds for termination?

24 A. It's --

25 MS. ACKERSTEIN: Objection.

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1 A. It's a grounds for the area manager
2 to coach the associate that this is one of the
3 basic expectations that we have of every sales
4 associate.

5 Q. So it isn't grounds for
6 termination?

7 MS. ACKERSTEIN: Objection.

8 Q. I think she'll -- if she doesn't
9 want you to answer --

10 MS. ACKERSTEIN: Oh, you can answer.

11 -- I'm just putting him on notice.

12 A. Okay. I would say if that was the
13 only deficiency that the manager observes in and
14 of itself would not be immediately grounds for
15 termination.

16 Q. Can it be grounds for termination?

17 A. Possibly.

18 Q. And when you say 'possibly,' I
19 mean, is it subjective?

20 A. No. I mean, it would -- you know,
21 I guess I would say depending on, you know, how
22 terribly it affected the person's ability to
23 manage his or her territory.

24 Q. Are you stating that if an
25 employee was performing well, had good

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1 performance, had success in the industry, yet,
2 failed to comply with that policy, it wouldn't
3 be grounds for termination?

4 A. No.

5 MS. ACKERSTEIN: Objection.

6 A. No, that's not what I'm implying at
7 all.

8 I'm just stating that that's one
9 of the basic expectations that we have of every
10 associate. Whether, you know, you've got great
11 results or not, that's a basic expectation that
12 we have of you as a sales associate in the
13 field.

14 Q. But I believe you also testified
15 although it's an expectation, even if a sales
16 associate does not comply with that policy, it
17 isn't necessarily grounds for termination.

18 A. I believe I stated it could be,
19 but not necessarily.

20 Q. It would depend on the particular
21 sales associate.

22 MS. ACKERSTEIN: Objection.

23 A. Again, in and of itself, not
24 reporting call activity, I have not been
25 involved in a case where that in itself led to

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1 termination, that one deficiency in and of
2 itself.

3 Q. Travel and expense reports...

4 A. Um-hum.

5 Q. -- does Aventis maintain records
6 regarding travel and expense reports?

7 A. We maintain records. Again,
8 that's a separate department, we have a separate
9 T&E Department. I can't state how far back the
10 records are maintained, but certainly T&E
11 reports are maintained for some period of time.

12 Q. I believe you testified earlier
13 that BK -- I believe you said BK -- was
14 terminated for falsification of travel and
15 expense reports?

16 A. Correct.

17 Q. All right. In the example you
18 gave with him, he actually, as I understand it,
19 classified a gift as a meal and actually
20 produced um...a bogus receipt for that meal and
21 submitted that to the company, correct?

22 A. Um-hum.

23 Q. In the event a sales associate
24 miscategorized an expense -- as I understand it,
25 there's several categories you can input an

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1 expense, correct?

2 A. Um-hum.

3 Q. If a sales associate
4 miscategorizes an expense, is that grounds for
5 termination?

6 A. If it's -- if the associate is
7 misrepresenting the facts of an expense and
8 falsifying the information, yes.

9 Q. When you say 'misrepresenting the
10 facts,' what do you mean by that?

11 A. Well, for example, in the question
12 you just asked me about BK, BK misrepresented
13 the facts of that particular expense, so he
14 falsified information related to that particular
15 expense and that's why he was terminated.

16 Q. Had BK not submitted I'll call it
17 a bogus receipt and checked off 'gift' by
18 mistake -- excuse me, 'lunch' by mistake and
19 actually it was a gift, but it was a harmless
20 mistake, is that grounds for termination?

21 MS. ACKERSTEIN: Objection.

22 A. If we deem that the associate is
23 misrepresenting the facts, then it is grounds
24 for termination.

25 Q. When you say 'misrepresenting the

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1 facts,' is there an investigation done into
2 that?

3 A. Yes. Typically, yes.

4 Q. So an error on a travel and
5 expense report isn't necessarily grounds for
6 termination.

7 MS. ACKERSTEIN: Objection.

8 A. It could -- it could be. You know,
9 again, if the associate is intentionally
10 misrepresenting the facts, then it's grounds for
11 termination.

12 Q. So it all depends on the intent of
13 the sales associate as opposed to an error?

14 A. Well, an error could be made and,
15 I mean, the associates are responsible for their
16 expense reports and, you know, they're
17 responsible for whatever information they
18 provide on the expense reports.

19 I would say that, you know,
20 ignorance or, you know, errors, that's part of
21 their responsibility, to make sure that, you
22 know, when they complete a T&E report that, you
23 know, they take the ten seconds that it requires
24 to review the information to make sure it's
25 accurate before they submit the information.

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1 A. Um --

2 Q. Or...

3 A. I would say a falsification or
4 misrepresentation is falsification. Once, you
5 know -- there's no categories in our minds or in
6 our approach process that says, you know,
7 misrepresenting the color of this pen is any
8 different than misrepresenting the color of this
9 bottle.

10 I mean, we deem all
11 misrepresentation as misrepresentation; there's
12 no categories of seriousness.

13 Q. Who makes the decision as to
14 whether it's an error or a mischaracterization?

15 A. Generally we have a discussion
16 with the associate.

17 Q. And based on that discussion, the
18 determination is made.

19 A. Um-hum, um-hum.

20 Q. And if it's determined -- an
21 example, if it's determined that the expense
22 report wasn't just a human error, but, in fact,
23 an intentional act to deceive Aventis as to what
24 -- in other words, to get more money
25 appropriated to a certain event, would that

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1 field from eight to five every day?

2 A. As I recall, that was some of the
3 concerns that they had in that he was not
4 reporting activity or he was not in the field at
5 eight a.m. as he was expected to.

6 Q. If you're not in the field at
7 eight a.m., is that grounds for a termination by
8 Aventis?

9 MS. ACKERSTEIN: Objection.

10 A. It could be.

11 Q. And when you say 'it could be,'
12 can you give an example as to how it could be?

13 A. Well, if you're getting paid to
14 work a territory from eight to five and you're
15 not meeting that expectation, again, that's a
16 deficiency and you're not meeting your basic
17 responsibilities.

18 And so that could be grounds for
19 termination.

20 Q. If a sales associate has a
21 function that night with a program or something
22 with doctors and they're expected to work that
23 night, that evening, are they still required to
24 be in the territory from eight to five?

25 A. Yes.

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1 was produced in response to discovery.

2 A. Um-hum.

3 Q. I believe it's been marked as
4 Exhibit Number 3. It shows a conference call
5 where the host is Christine List.

6 A. Um-hum.

7 Q. And the date of it is September
8 21st, 2000.

9 A. Um-hum.

10 Q. Does that refresh your memory as
11 to whether or not you were involved in that
12 conference call?

13 A. No.

14 Q. Do you recall when you spoke to
15 either Christine List or Deb Edmunds in
16 September of 2000 whether you talked about
17 Sherry obtaining gas...I think it says gas
18 receipts, either -- fuel reports on Mr. Byrd?

19 A. I don't know who Sherry is. I
20 mean, this doesn't sound familiar or look
21 familiar to me.

22 Q. Do you remember ever talking about
23 obtaining fuel reports on Bill Byrd?

24 A. Um, it's likely that we did that.
25 I can't honestly specifically recall when or if

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1 we obtained gas receipts, but it's likely that
2 we did.

3 Q. Is that a usual undertaking by
4 Aventis?

5 MS. ACKERSTEIN: Objection.

6 A. It's a resource and a tool that we
7 have in terms of tracking an associate's
8 activity in the field, so it's certainly
9 something that we can look at.

10 Q. When would that resource or tool
11 be utilized by Aventis?

12 A. It depends. There's no specific
13 formula for that.

14 Q. Have you been involved in tracking
15 fuel reports for other associates, sales
16 associates?

17 A. I have.

18 Q. Can you identify who those sales
19 associates are?

20 (DIRECTION) MS. ACKERSTEIN: Well, I'm not
21 going allow her to testify to anybody's
22 name. If you can describe an instance...

23 THE WITNESS: I can't -- I can't
24 recall specific names.

25 MR. KOSLOWSKY: Can you give me a

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1 MS. ACKERSTEIN: That's fine.

2 That's exactly what I'm going to do.

3 Q. Do you recall any specific
4 individuals that you sought fuel reports on?

5 A. I can't honestly recall specific
6 names of -- I've supported hundreds or thousands
7 of associates over the last four years, I can't
8 recall specific names of who I may have asked
9 for gas receipts for or who else.

10 Q. Do you recall approximately how
11 many fuel reports you sought in your tenure as
12 -- with Human Resources within Aventis?

13 A. How many times?

14 Q. Yeah, how many times. Would it
15 have been five times?

16 A. I would say, uh, probably more
17 like at least twenty times.

18 Q. And typically when would you seek
19 these fuel reports on sales associates?

20 MS. ACKERSTEIN: Objection.

21 A. Um, typically if we have concerns
22 with respect to the associate's time in the
23 field.

24 Q. Typically is that done through the
25 Human Resources office?

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1 A. We don't generate the gas
2 receipts, we don't have that information
3 available at our fingertips. We request that
4 through other internal resources and they
5 generate the reports for us.

6 Q. If these field reports indicate
7 that a sales associate was not in the territory,
8 sales territory during the day -- the time
9 period and the day they were supposed to, is
10 that grounds for termination by Aventis?

11 MS. ACKERSTEIN: Objection.

12 A. If you're not in the field for --
13 can you restate that?

14 Q. If you're not in the field -- in
15 other words, if these fuel reports indicate that
16 a sales associate is not in the field or their
17 territory between the time period of eight and
18 five, is that grounds for termination?

19 A. It could be.

20 Q. Is there any reason, acceptable
21 reason within Aventis, for a sales associate not
22 to be in the territory between the time period
23 of eight and five?

24 MS. ACKERSTEIN: Objection.

25 A. There are certainly acceptable

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1 reports. Again, it's outside of my immediate
2 area of responsibility.

3 Q. Yeah.

4 A. So it really depends on their
5 workload.

6 Q. You don't know or -- I mean, is it
7 something that can be done in a day if --
8 assuming the person has nothing to do.

9 MS. ACKERSTEIN: Objection.

10 A. If the person, you know, is
11 available to run the reports, they could
12 foreseeably -- I've never run the reports, so I
13 don't know what running the report entails.

14 Q. Okay, that's -- okay. Who
15 participated in the decision to terminate Bill
16 Byrd's employment?

17 A. Um, Ms. Edmunds, Ms. List and
18 myself.

19 Q. Was there a specific telephone
20 conversation where the decision was made?

21 A. I'm sure we must have had a phone
22 conversation.

23 Q. Do you recall when that decision
24 was made?

25 A. Likely shortly before the final

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1 the opportunity to explain why the error
2 occurred or why the facts don't match up, so why
3 was the -- why were the facts misrepresented,
4 why did he state that it was, um, a display
5 versus a golf outing.

6 Q. Maybe I'm wrong. I understood
7 your testimony to be before that Aventis would
8 do an investigation and if they determined that
9 they were intentionally trying to deceive...the
10 employee sales associate was intentionally
11 trying to deceive Aventis, that would be grounds
12 for termination?

13 MS. ACKERSTEIN: Objection. That's
14 not what she said.

15 A. What I said is that if we determine
16 that there's information that the T&E report has
17 been falsified, we give the associate the
18 opportunity to explain why the information was
19 presented the way he or she presented it.

20 If the associate has falsified the
21 information, then it is grounds for termination.

22 Q. In -- well, when you say
23 'falsified,' what do you mean by falsified? You
24 miss -- in other words, if a person doesn't
25 understand the policy within Aventis, is that

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1 considered falsifying records?

2 A. Not understanding a policy does
3 not excuse you from the responsibility.

4 Q. That's not what I'm asking.

5 A. So that's -- I view that as a
6 completely different question.

7 Q. Not understanding a policy, is
8 that deemed to be falsification of records by
9 Aventis.

10 MS. ACKERSTEIN: Objection.

11 A. If it's your expectation to know the
12 policy.

13 Q. I'm asking you what -- can you do
14 me a favor? I'm asking a specific question and
15 you're giving me a completely different answer.

16 I'm asking you if a sales
17 associate does not understand or misconstrues a
18 policy and as a result of that he checks off the
19 wrong box in an expense report, does that -- in
20 Aventis's eyes, is that falsification of
21 records.

22 A. The answer is it can be because
23 you're expected to know the policy.

24 Q. So you're saying in every occasion
25 it's considered falsification of records.

Mailet Minassian

1 MS. ACKERSTEIN: Objection.

2 A. Again, you know, by December 3rd I
3 was already involved in the process, so it's not
4 unlikely that I would get copied on an e-mail
5 like this. And as I said a few minutes ago, I
6 get copied on all sorts of e-mails, so it's not
7 necessarily unusual for me to be copied on that.

8 Q. Was there any discussions
9 whatsoever or do you recall with regard to Julie
10 Nelson, the other person identified in that
11 e-mail?

12 A. Julie Nelson would have been --
13 what group was she in? PCP-6? She would have
14 been outside my, uh, area of responsibility and
15 likely Deb's as well, so...I was assigned to a
16 specific group and that was PCP-2 and she was in
17 PCP-6.

18 Q. No, I under -- but you don't
19 recall any specific --

20 A. (Witness shakes head in the
21 negative).

22 MR. KOSLOWSKY: Can I get that
23 marked Exhibit Number 5.

24

25 (Whereupon, Exhibit P-5 is marked

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1 for identification.)

2

3 Q. I want to show you a document and
4 ask if you recognize it (handing).

5 (Brief pause.)

6 A. Yes, I do.

7 Q. Okay. Do you recall receiving
8 that e-mail in December of '01?

9 A. I recognize the document. I don't
10 recall when I received it. Obviously I must
11 have received it on or about December 4th, but I
12 do recognize the document.

13 Q. Do you recall having any
14 discussions regarding this e-mail with anyone?

15 A. Again, I don't remember specific
16 discussion, but it's very likely that I did have
17 a discussion with Deb and/or Chris List about
18 this.

19 Q. Were you involved in crafting that
20 e-mail at all?

21 A. No.

22 MR. KOSLOWSKY: Can I get this
23 marked as Exhibit Number 6.

24

25 (Whereupon, Exhibit P-6 is marked

Mailet Minassian

1 so that, you know, we can intervene.

2 Q. I see.

3 A. Because we're closer to the
4 associate than they are.

5 Q. You told us about BK who was
6 terminated for the expense report.

7 What race was he?

8 A. He's, um, a white male.

9 Q. Now, you talked to us about how
10 you investigate or how Aventis investigates a
11 T&E expense where it appears that an expense is
12 reported and it might really have been something
13 else and you've said if we find out we
14 investigate.

15 Right?

16 A. Um-hum, correct.

17 Q. If you go to the associate and he
18 says, you're right, it was not a display table,
19 it was a golf outing, isn't that kind of the end
20 of the investigation?

21 A. There's no need to investigate
22 beyond that.

23 Q. You referred to something called a
24 help me understand meeting.

25 Is that a term that Aventis uses?

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1 MS. ACKERSTEIN: I have no further
2 questions.

3
4 REDIRECT EXAMINATION

5 BY MR. KOSLOWSKY:

6 Q. After you changed jobs in December
7 2001, who took over your position?

8 A. Uh, Kevin Fox.

9 Q. And is he out of New Jersey?

10 A. He's current -- yes, he's part of
11 my group.

12 Q. Is she -- is he still in that
13 capacity with Aventis?

14 A. Um, well, there's been a lot of
15 realignments, so he's still part of the HR
16 management team.

17 Q. You also testified with regard to
18 T&E reports regarding falsification of reports.

19 It's my understanding that BK was
20 terminated for one instances of falsification of
21 a report; is that correct?

22 A. Um-hum, correct.

23 Q. So that's all it takes at Aventis
24 is one falsification of a report to be
25 terminated?

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1 A. Correct.

2 Q. And you testified that he's a
3 white male.

4 What is his religion?

5 A. Uh, he's Jewish.

6 Q. Jewish, all right. And how old is
7 he?

8 A. I don't know his age.

9 Q. Approximately?

10 A. Late thirties, possibly early
11 forties.

12 Q. And you testified that you
13 attended a help me understanding meeting with
14 Mr. Byrd? Is that what you testified to?

15 A. No.

16 Q. You said that they have that
17 process.

18 A. Correct.

19 Q. Who initiates that?

20 A. Typically the management.

21 Q. Management?

22 A. Um-hum.

23 Q. And was it done in this instances
24 -- instant?

25 A. Well, I think the summary notes

C E R T I F I C A T E

I, TABITHA DENTE, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, do hereby certify that prior to the commencement of the examination, the witness was duly sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.



TABITHA DENTE, CSR NO. 1592